

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

PHYLLIS TILLOTSON

APPELLANT,

**v.
ST. JOSEPH MEDICAL CENTER**

RESPONDENT.

DOCKET NUMBER WD72948

DATE: June 14, 2011

Appeal From:

Labor and Industrial Relations Commission

Appellate Judges:

Division Two: James M. Smart, Jr., Presiding Judge, Mark D. Pfeiffer, Judge and Cynthia L. Martin, Judge

Attorneys:

Mark E. Kolich, Lenexa, KS, for appellant.

J. Scott Gordon, Overland Park, KS, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

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PHYLLIS TILLOTSON,

APPELLANT,

v.

ST. JOSEPH MEDICAL CENTER,

RESPONDENT.

No. WD72948

Labor and Industrial Relations Commission

Before Division Two: James M. Smart, Jr., Presiding Judge, Mark D. Pfeiffer, Judge and
Cynthia L. Martin, Judge

Phyllis Tillotson appeals from the Labor and Industrial Relations Commission's Final Award denying compensation. The Commission found that Tillotson's torn lateral meniscus was a compensable accident. Tillotson suffered from a degenerative arthritic condition which rendered arthroscopy an ineffective treatment for the torn lateral meniscus. Tillotson's torn lateral meniscus was treated by a total knee replacement, for which the employer refused to pay. The Commission denied Tillotson compensation beyond that already paid by the employer because it found that Tillotson's torn lateral meniscus was not the prevailing factor in requiring her total knee replacement. Tillotson contends that the Commission erred because the workers' compensation act does not require that Tillotson's otherwise compensable accident be the prevailing factor in requiring a total knee replacement.

Reversed and remanded with directions.

Division Two holds:

(1) Pursuant to section 287.120.1, if a compensable injury by accident is established, then the appropriate compensation to be furnished the injured employee must be determined. That compensation includes medical care and treatment required by section 287.140.1.

(2) Section 287.140.1 describes the standard for determining an employer's obligation to afford medical care following a compensable injury as whether the treatment is reasonably required to cure and relieve the effects of the injury.

(3) Section 287.140.1 does not include a prevailing factor test. The prevailing factor analysis described in section 287.020.3(1) is only relevant in determining whether an employee has suffered a compensable injury by accident arising out of the course of an employee's employment.

(4) A total knee replacement is not a medical condition or disability, but is instead a form of medical treatment. The Commission erroneously imposed a heightened burden on

Tillotson beyond that required by section 287.140.1 when it required her to prove that her torn lateral meniscus was the prevailing factor in requiring a total knee replacement.

(5) Tillotson's pre-existing degenerative arthritis rendered Tillotson medically ineligible for arthroscopy to treat the torn lateral meniscus. However, a pre-existing medical condition does not relieve an employer of the obligation to provide an employee with medical care reasonably required to treat a compensable injury, even if that medical treatment would not have been required but for the pre-existing condition.

(6) Tillotson was entitled to reimbursement for the cost of a total knee replacement pursuant to section 287.140.1, as the uncontested medical causation evidence indicated that the procedure was reasonably required to cure and relieve Tillotson's torn lateral meniscus. Tillotson was also entitled to recover compensation in the form of temporary total disability, permanent partial disability, and future medical expenses as the uncontested medical evidence indicated these damages were caused by the total knee replacement.

Opinion by Cynthia L. Martin, Judge

June 14, 2011

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